

Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 ACDA-19 SAJ-01 IO-14 NIC-01 CIAE-00

DODE-00 PM-07 INR-10 L-03 NSAE-00 NSC-10 PA-04 RSC-01

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FM USMISSION BERLIN

TO SECSTATE WASHDC 2792

AMEMBASSY BONN

INFO AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

C O N F I D E N T I A L BERLIN 0307

E.O. 11652: GDS

TAGS: PGOV, WB, GW, GE

SUBJECT: FRG CONSTITUTIONAL COURT REQUESTS INGRID BRUECKMANN
DOCUMENTS

REF: BERLIN 1432 (1973)

1. SENAT INFORMED ALLIES FEBRUARY 15 THAT INGRID
BRUECKMANN, TEEN-AGE GIRL HELD IN BERLIN PENDING OUT-
COME OF HER APPEAL TO STRASBOURG HUMAN RIGHTS COMMISSION
AGAINST ORDER FOR EXTRADITION TO GDR WHERE SHE FACES
MANSLAUGHTER CHARGE, HAS FILED APPEAL AGAINST EXTRA-
DITION TO FRG CONSTITUTIONAL COURT. WE UNDERSTAND
KARLSRUHE JUDGE HAS REQUESTED DOCUMENTS ON CASE FROM
OFFICE OF SENATOR FROM JUSTICE. INFORMAL ORAL REQUEST
FOR DOCUMENTS WAS FOR THE PURPOSE OF ASSISTING KARLSRUHE
COURT IN REACHING DECISION CONCERNING ITS COMPETENCE
TO RULE IN BRUECKMANN CASE. UPON RECEIVING REQUEST,
SENATOR FOR JUSTICE CALLED FRG JUSTICE MINISTER TO
INQUIRE ABOUT REQUEST. FRG JUSTICE MINISTER IN TURN
CALLED FOREIGN MINISTRY. RESULT WAS THAT REQUEST FOR
DOCUMENTS WAS DISCUSSED IN BONN GROUP FEBRUARY 15.

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2. SENAT INFORMED ALLIES THAT SHOULD THE DOCUMENTS BE TURNED OVER TO KARLSRUHE, SENAT WOULD ISSUE DISCLAIMER STATING THAT FORWARDING DOCUMENTS DOES NOT CONSTITUTE RECOGNITION OF KARLSRUHE COMPETENCE TO ISSUE A DECISION IN BRUECKMANN CASE.

3. MISSION HAS INFORMED SENAT CHANCELLERY DIRECTOR, PETER HERZ, THAT DOCUMENTS SHOULD NOT BE TURNED OVER TO KARLSRUHE COURT WITHOUT ALLIED AUTHORIZATION.

4. CLEARLY WE WISH TO AVOID SITUATION IN WHICH BERLIN OFFICIALS GIVE APPEARANCE OF COOPERATING WITH KARLSRUHE COURT IN EXERCISE OF JURISDICTION OVER BERLIN CASE, OR IN WHICH KARLSRUHE COURT ACTUALLY ATTEMPTS TO EXERCISE JURISDICTION AND ISSUES ORDER WHICH WE WOULD HAVE TO INSTRUCT BERLIN OFFICIALS TO IGNORE. ON OTHER HAND, INFORMAL COOPERATION BETWEEN JUDICIAL AUTHORITIES OF DIFFERENT JURISDICTIONS DOES NOT IN ITSELF SEEM TO US OBJECTION-ABLE PROVIDED IT CAN BE MANAGED IN WAY THAT DOES NO VIOLENCE TO OUR POSITION AND THAT OFFERS POSSIBILITY OF PRODUCING ACCEPTABLE RESULT.

5. WE ARE SUGGESTING TO ALLIED MISSIONS THAT ALLIES SHOULD INFORM SENAT THAT:

A. WE WOULD HAVE NO OBJECTION TO SENATOR FOR JUSTICE RESPONDING INFORMALLY TO INFORMAL REQUESTS. IF HE DOES SO, HOWEVER, HE MUST CALL ATTENTION OF JUDGE TO BK/O(52)35 WHICH PROVIDES THAT CONSTITUTIONAL COURT MAY NOT EXERCISE JURISDICTION OVER BERLIN.

B. WE WOULD HAVE NO OBJECTION IF SENATOR FOR JUSTICE INCLUDED IN HIS INFORMAL RESPONSE PRECIS OF CASE AND COPIES OF SUCH DOCUMENTS AS ARE IN FACT AVAILABLE TO PUBLIC, INCLUDING VARIOUS INDICTMENTS, APPEALS AND COURT JUDGMENTS.

C. HOWEVER, FILES OF BRUECKMANN CASE OR OFFICIALS DOCUMENTS PERTAINING TO THAT CASE MAY NOT BE PASSED TO JUDGE SINCE WE WOULD NOT WISH TO CREATE IMPRESSION CONFIDENTIAL

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THROUGH FORMAL RESPONSE THAT KARLSRUHE HAS ANY JURISDICTION. KLEIN

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